

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL ACTION NO. 5:14-cr-00244

DONALD L. BLANKENSHIP,

Defendant.

ORDER

This Court has reviewed the *Motion to Intervene for the Purpose of Responding in Opposition to Defendant's Request for In Camera Voir Dire Questioning of Potential Jurors and Motion for Contemporaneous Public Access to All Exhibits Admitted at Trial and Fully Published to the Jury* (Document 395), filed on September 30, 2015, by the Charleston Gazette-Mail and West Virginia Public Broadcasting, Inc. The Court has also reviewed the Defendant's *Reply to News Media Interveners' Opposition to Defendant's Request for In Camera Voir Dire Questioning of Potential Jurors* (Document 403), filed on October 2, 2015.

The Court has previously addressed the issue of intervention in this case, and refers the movants to this Court's January 7, 2015 *Memorandum Opinion and Order* (Document 63) granting in part and denying in part the Motion of the Wall Street Journal, the Associated Press, Charleston Gazette, National Public Radio Inc., and the Friends of West Virginia Public Broadcasting, Inc., to Intervene for the Limited Purpose of Moving the Court to Reconsider and

Vacate the November 14, 2014 Gag and Sealing Order, where the Court noted that it was unclear whether a “motion to intervene in the criminal law context is the appropriate vehicle for airing the Movant’s grievances” (Document 63 at 4.) The Court adheres to this position, and has identified no legal basis supporting a right to intervention in a criminal trial.

In the most recent filing, the movants seek to intervene for the purpose of opposing Defendant’s request for *in camera* voir dire. (Document 395 at 1.) The Court finds the Defendant’s motion for individual *in camera* voir dire was filed on September 8, 2015, in Defendant’s Proposed Voir Dire Procedures and Questions (Document 354), for trial scheduled to begin on October 1, 2015. The instant motion to intervene, filed on September 30, 2015, the eve of trial, is untimely and would inevitably result in delay. Further, the Court finds the motion is now moot, as voir dire of the jury pool in the present case concluded on October 6, 2015.

The movants also request contemporaneous public access to all exhibits admitted at trial and published to the jury. (*Id.*) This matter has previously been addressed by the Court with Counsel for the United States and Counsel for the Defendant, Donald Blankenship.

Wherefore, for the reasons stated herein, the Court **ORDERS** that *The Charleston Gazette-Mail and West Virginia Public Broadcasting, Inc.’s Motion to Intervene for the Purpose of Responding in Opposition to Defendant’s Request for In Camera Voir Dire Questioning of Potential Jurors and Contemporaneous Public Access to All Exhibits Admitted at Trial and Fully Published to the Jury* (Document 395) be **DENIED**.

The Court **DIRECTS** the Clerk to send a copy of this Order to Sean P. McGinley, to the Defendant and Counsel, to the United States Attorney, to the United States Probation Office, and to the Office of the United States Marshal.

ENTER: October 9, 2015

A handwritten signature in blue ink, reading "Irene C. Berger", is written over a horizontal line.

IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA